



County of Los Angeles CHIEF EXECUTIVE OFFICE

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November 29, 2011

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

RECOMMENDATION TO INCREASE THE DELEGATED SETTLEMENT AUTHORITY (ALL DISTRICTS AFFECTED) (3 VOTES)

SUBJECT

This is a recommendation to increase the authority delegated to the County Counsel, the County Claims Board, and the Contract Cities Liability Trust Fund Claims Board to settle claims and lawsuits.

JOINT RECOMMENDATION WITH COUNTY COUNSEL THAT YOUR BOARD:

1. Approve the introduction of an ordinance to increase the authority delegated to the County Counsel to settle non-medical malpractice claims and lawsuits from \$20,000 to \$50,000;
2. Adopt the attached resolution to increase the authority delegated to the County Claims Board to settle claims and lawsuits for money damages from \$100,000 to \$200,000; and
3. Adopt the attached resolution to increase the authority delegated to the Contract Cities Liability Trust Fund Claims Board to settle claims and lawsuits for money damages from \$100,000 to \$200,000.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The recommended increases to the settlement authority levels are a result of the detailed review of the County's liability claims, the County's third party liability process,

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risk management and insurance industry best practices, and delegated authority levels established by other public agencies.

Implementation of Strategic Plan Goals

Adopting these recommendations supports the County of Los Angeles Strategic Plan Goal One – Operational Effectiveness.

FISCAL IMPACT/FINANCING

Acceptance of these recommendations will have a fractional positive financial impact on County costs through reduction of staff time and resources required to process settlements through the Claims Boards and to the Board of Supervisors. However, as discussed below, more significantly, the increased settlement authority will provide County Counsel, the Chief Executive Office (CEO), and the County's Third Party Administrators increased opportunity to resolve claims/lawsuits more quickly and efficiently, thereby more inexpensively, both as to amounts paid as well as claims adjustment and litigation costs.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Pursuant to previous actions of the Board, the County Counsel currently has authority to approve the settlement of non-medical malpractice claims/lawsuits up to, and including, \$20,000. County Counsel's authority to settle medical malpractice liability is up to, and including, \$100,000, and therefore, is not impacted by these recommendations.

Currently, the County Claims Board and the Contract Cities Liability Trust Fund Claims Board have the authority to approve settlements of claims/lawsuits which exceed \$20,000 and do not exceed \$100,000. All settlements over \$100,000 require approval of the Board of Supervisors.

The recommendations recognize the impact of inflation since the establishment of the current delegated authority amounts. The County Counsel's current settlement authority of \$20,000 was delegated in 1982 and has not been increased since that time. The County Claims Board authority was granted in 1985 and the Contract Cities Liability Trust Fund Claims Board authority was granted in 2000 – neither of which have been adjusted since being initially granted.

Applying the inflation rates, the 1982 \$20,000 County Counsel settlement authority approximates to \$47,000 in current dollars. The 1985 \$100,000 County Claims Board authority equates to \$210,850. The inflation increases justify the recommended

settlement authority increases. It is reasonable for the Contract Cities Liability Trust Fund Claims Board's authority to be equivalent to the County Claims Board.

County Counsel Settlement Authority

Increasing the County Counsel's settlement authority will allow for the more expeditious settlement of claims and lawsuits. Settlements will occur earlier in the process thereby reducing the indemnity costs as well as the County's defense costs.

Specifically, the current \$20,000 ceiling on County Counsel's settlement authority limits the County's claims adjusting process. The level is too low to facilitate expeditious resolution within six months of the filing of the claim causing claimants to become more adversarial, increasing their demands, and requiring them to file lawsuits to preserve their statutory rights. Lawsuits are typically more expensive to settle than claims given the involvement of plaintiffs' counsel and the resulting attorney fees, which at times can be significant. County Counsel and the CEO's Risk Management Branch will work with the County's Third Party Administrators to maximize these early resolution efforts by allowing them to utilize this authority to resolve claims as early as possible.

Similarly, increasing County Counsel's authority to settle non-medical malpractice claims to \$50,000 will allow for more expeditious resolution of lawsuits earlier in the process, thereby reducing both the indemnity as well as the County's litigation defense costs.

As illustrated through the enclosed charts (Attachment I), for claims/lawsuits closed from calendar year (CY) 2008 through CY 2010:

1. Increased County Counsel settlement authority for non-medical malpractice claims and lawsuits from \$20,000 to \$50,000 would have resulted in 106 (30%) fewer claims or lawsuits being presented to the Claims Board (241 versus 347). The average number presented to the Claims Board would have been 6.7 instead of 9.6 per month.
2. The indemnity expense in the \$0 to \$20,000 range accounted for 6.1% (\$11.0 million) of the total indemnity expense (\$180.0 million); the indemnity expense in the \$20,000 to \$50,000 range accounted for an additional 2.8% (\$5.0 million) of the total indemnity expense (\$180.0 million). With the increased settlement authority for County Counsel from \$20,000 to \$50,000, County Counsel would have had the authority to settle over 98% of all claims/lawsuits, but such claims/lawsuits would have only included 8.9% of the total indemnity expense.

Delegation of \$50,000 in settlement authority to the County Counsel is consistent with the City of Los Angeles, LA Metro, the Los Angeles Unified School District, and several counties throughout the State.

Claims Board Settlement Authority

While increasing the Claims Board's authority to \$200,000 will have a minimal impact on the Board of Supervisors' approval of settlements in the context of total indemnity expense, it would more significantly reduce the number of matters to be presented to the Board, thereby reducing processing time, effort, and resources.

As illustrated through the enclosed charts, for claims/lawsuits closed from CY 2008 through CY 2010:

1. Increased settlement authority for the County Claims Board from \$100,000 to \$200,000 would have resulted in 41 (24%) more claims and lawsuits being presented to the County Claims Board and not the Board of Supervisors (128 versus 169). The average number presented to the Board of Supervisors would have been 3.6 per month instead of 4.7 per month.
2. The increased settlement authority for the Claims Board from \$100,000 to \$200,000 would mean that the Claims Board would have had the authority to settle an additional 41 claims and lawsuits that accounted for 3.6% of the total indemnity expense.
3. Specifically, while the Board of Supervisors would retain the responsibility for approving less than 1% of claims/lawsuits, such claims/lawsuits would have accounted for 82.2% of the total indemnity expenses.

While the jurisdictions we surveyed did not, for the most part, utilize a claims board structure, delegation of \$200,000 to the County and Contract Cities Liability Trust Fund Claims Board is consistent with the authority delegated by LA Metro to its claims board.

We have discussed the recommendations with the Contract Cities Liability Trust Fund Claims Board, which is supportive of increasing its delegated authority so as to be consistent with those applicable to the County.

The increase in delegated authority will not change the current practices related to the Corrective Action Plan and the Summary Corrective Action Plans. They will continue to be required for all settlements over \$20,000 and they will continue to be reviewed by the Risk Management Inspector General.

CONCLUSION

The recommended increase in delegated settlement authority will greatly improve the process of County claims and lawsuits and reduce the County's cost of risk.

Respectfully submitted,



WILLIAM T FUJIOKA
Chief Executive Officer



ANDREA SHERIDAN ORDIN
County Counsel

WTF:EFS:LM:cg

Attachments

c: Executive Office, Board of Supervisors
County Counsel

ANALYSIS

This ordinance amends the Los Angeles County Code, Title 2 - Administration, Chapter 2.14 to provide that the County Counsel is authorized to settle claims and lawsuits in which the amount of the settlement does not exceed \$50,000.

Very truly yours,

ANDREA SHERIDAN ORDIN
County Counsel

By 
JOHN F. KRATTLI
Senior Assistant County Counsel

JFK:rfm

Requested: 05/16/11
Revised: 11/15/11

ORDINANCE NO. _____

An ordinance amending Title 2 - Administration of the Los Angeles County Code, relating to the authority of County Counsel to settle claims and lawsuits.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Section 2.14.020 is hereby amended to read as follows:

2.14.020 Suits or claims -- Settlement procedure.

A. Except as otherwise provided in this section, and as otherwise delegated to the claims boards established by the Board of Supervisors, where, in the opinion of the eCounty eCounsel, the ~~bBoard of sSupervisors~~ may legally compromise or settle any claim or suit by or against the eCounty, or any entity of which the Board of Supervisors is the governing body, or any officer thereof, the eCounty eCounsel shall report to the ~~bBoard of sSupervisors~~ the results of his/her investigation concerning such suit or claim, together with such recommendation for its disposition as he/she may have, for the information of the ~~bBoard of sSupervisors~~ in its action.

B. Where, after proper claim has been filed and upon investigation by the eCounty eCounsel, he/she finds that there exists a probable liability ~~on the part of the county of Los Angeles~~ as to a claim or suit, and where the amount necessary to be expended in order to pay, settle or compromise such claim or suit does not exceed the sum of \$~~2050~~,000.00, the eCounty eCounsel is authorized to pay, settle or compromise such claim or suit pending against the eCounty of Los Angeles, or any entity of which the Board of Supervisors is the governing body, or any officer or employee thereof ~~for~~

~~which the county may ultimately be liable~~, in an amount not exceeding \$2050,000.00, as to any person, firm or corporation, without the necessity of first receiving the approval of the ~~h~~Board of ~~s~~Supervisors.

C. The ~~e~~County ~~e~~Counsel is further authorized to settle or compromise any claim or suit of the ~~e~~County of Los Angeles, or any entity of which the Board of Supervisors is the governing body, against third parties, where he/she finds there exists a reasonable doubt or dispute as to the validity of said claim or suit, and where the amount claimed or prayed for does not exceed the sum of \$2050,000.00, without the necessity of first receiving the approval of the ~~h~~Board of ~~s~~Supervisors. The ~~e~~County ~~e~~Counsel is authorized to execute and deliver to said third parties any and all releases, covenants not to sue, satisfactions of judgment, and any other instrument in writing necessary or advisable to be executed and delivered to said third parties in connection with the settlement of such claims or suits.

[214020JKCC]

**RESOLUTION OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF LOS ANGELES
MODIFYING THE SETTLEMENT AUTHORITY OF THE
LOS ANGELES COUNTY CLAIMS BOARD**

WHEREAS, pursuant to Government Code section 935.2, the Board of Supervisors has previously established by resolution the Los Angeles County Claims Board ("County Claims Board");

WHEREAS, the County Claims Board performs the functions of the Board of Supervisors related to claims and lawsuits for money damages, except as such authority has been delegated to the County Counsel pursuant to Los Angeles County Code section 2.14.020; and except as such authority has been delegated to the Los Angeles County Contract Cities Liability Trust Fund Claims Board;

WHEREAS, it is the Board's intention to modify the settlement authority of the County Claims Board as set forth herein.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors that:

(1) The County Claims Board shall have the authority to review, and approve or disapprove, the settlement of claims and lawsuits, for money damages, against the County of Los Angeles, or any entity of which the Board of Supervisors is the governing body, which settlements exceed \$50,000 and do not exceed \$200,000.

(2) Proposed settlements of claims and lawsuits, for money damages, against the County of Los Angeles, or any entity of which the Board of Supervisors is the governing body, which exceed \$200,000 shall be submitted first to the County Claims Board for review and its recommendation for approval or disapproval, following which

the proposed settlement will be submitted to the Board of Supervisors for review and final approval or disapproval.

The foregoing resolution was on the ____ day of _____, 2011, adopted by the Board of Supervisors of the County of Los Angeles and ex officio the governing body of all other special assessment and taxing districts, agencies and authorities for which said Board so acts.

SACHI A. HAMAI, Executive Officer
Board of Supervisors

By _____
Deputy

APPROVED AS TO FORM:

ANDREA SHERIDAN ORDIN
County Counsel

By 
JOHN F. KRATTLI
Senior Assistant County Counsel

**RESOLUTION OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF LOS ANGELES
MODIFYING THE SETTLEMENT AUTHORITY OF THE
COUNTY OF LOS ANGELES
CONTRACT CITIES LIABILITY TRUST FUND CLAIMS BOARD**

WHEREAS, pursuant to Government Code section 935.2, the Board of Supervisors has previously established, as set forth in a resolution adopted on February 1, 2000, the County of Los Angeles Contract Cities Liability Trust Fund Claims Board ("Contract Cities Liability Trust Fund Claims Board") for the purpose of reviewing and approving the settlement of claims and lawsuits, for money damages, which settlements are paid from the County's Contract Cities Liability Trust Fund (such claims and lawsuits are hereinafter referred to as "Contract City Claims");

WHEREAS, by resolution adopted on August 29, 2000, the Board of Supervisors established alternate members for the Contract Cities Liability Trust Fund Claims Board;

WHEREAS, it is the Board's intention to modify the settlement authority of the Contract Cities Liability Trust Fund Claims Board as set forth herein.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Los Angeles that:

(1) The Contract Cities Liability Trust Fund Claims Board shall have the authority to review, and approve or disapprove, the settlement of Contract City Claims, which settlements exceed \$50,000 and do not exceed \$200,000.

(2) Any proposed Contract City Claims settlement which exceeds \$200,000 shall be submitted first to the Contract Cities Liability Trust Fund Claims Board for review and its recommendation to the Board of Supervisors for approval or disapproval, following which the proposed settlement and the recommendation of the Contract Cities

Liability Trust Fund Claims Board will be submitted to the Board of Supervisors for review and final approval or disapproval.

The foregoing resolution was on the ____ day of _____, 2011, adopted by the Board of Supervisors of the County of Los Angeles and ex officio the governing body of all other special assessment and taxing districts, agencies and authorities for which said Board so acts.

SACHI A. HAMAI, Executive Officer
Board of Supervisors

By _____
Deputy

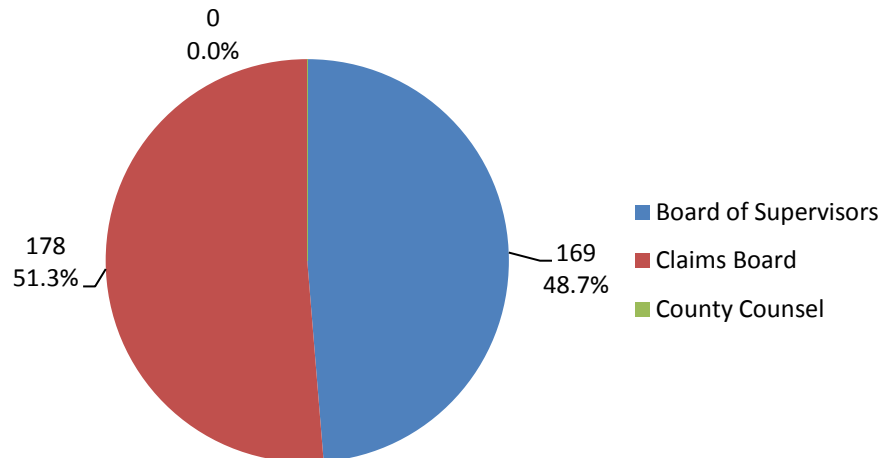
APPROVED AS TO FORM:

ANDREA SHERIDAN ORDIN
County Counsel

By _____
JOHN F. KRATTLI
Senior Assistant County Counsel

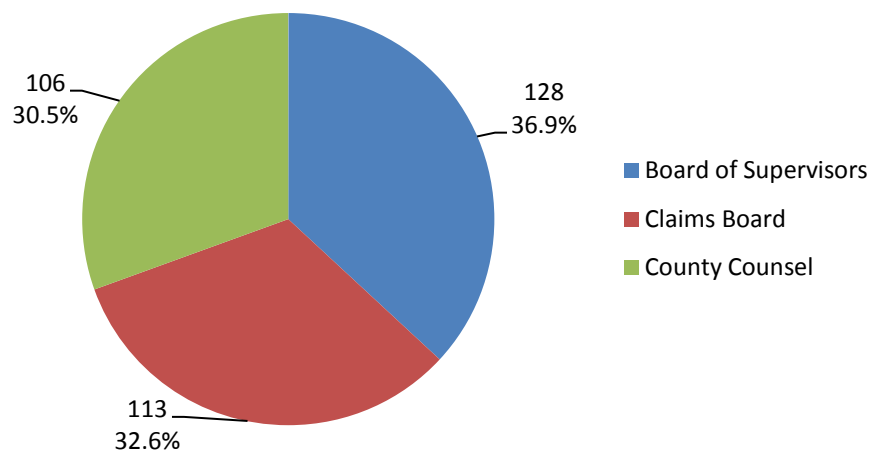
Number and Percentage of Claims Closed, Calendar Year 2008-2010, Requiring Claims Board or Board of Supervisors Approval, Based on Existing Authority Levels

County Counsel, \$0 to \$20,000 (Medical Malpractice to \$100,000);
Claims Board, greater than \$20,000 to \$100,000;
Board of Supervisors, greater than \$100,000

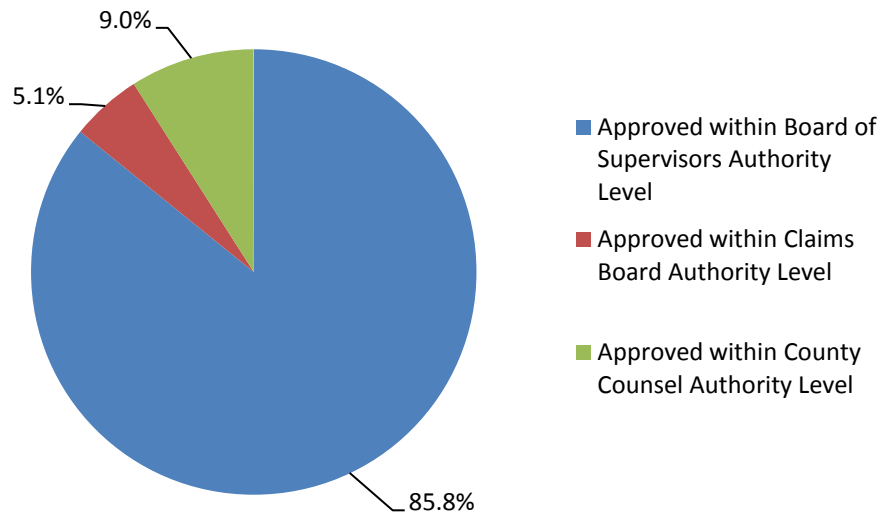


Number and Percentage of Claims Closed, Calendar Year 2008-2010, Based on Proposed Authority Levels

County Counsel, \$0 to \$50,000 (Medical Malpractice to \$100,000);
Claims Board, greater than \$50,000 to \$200,000;
Board of Supervisors, greater than \$200,000



Percentage of Indemnity Expenses for Claims or Lawsuits Settled Within Authority Levels by Entity, Calendar Year 2008 to Calendar Year 2010, Based on Existing Authority Levels



Percentage of Indemnity Expenses for Claims or Lawsuits Settled Within Authority Levels by Entity, Calendar Year 2008 to Calendar Year 2010, Based on Proposed Authority Levels

